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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>26 February 2008</u>.
2a)☐ This action is **FINAL**.        2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-32</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-32</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

1.      This action is responsive to the following communication: Amendment filed 2/26/08. **This action**

**is made non-final**.

2.      Claims 1-32 are pending in the case.  Claims 1, 19-22, 29-32 are independent claims.


## Continued Examination Under 37 CFR 1.114

3.      A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR

1.17(e), was filed in this application after final rejection.  Since this application is eligible for continued

examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the

finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.  Applicant's

submission filed on 2/26/08 has been entered.


## Claim Objections

4.      Applicant's amendment corrects the previous objection on claim 13; therefore, the previous

objection on claim 13 is withdrawn.


## Claim Rejections - 35 USC § 101

5.      35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or
> composition of matter, or any new and useful improvement thereof, may obtain a patent therefor,
> subject to the conditions and requirements of this title.

6. **Claims 1-21 and 32 are rejected under 35 U.S.C. 101 because the claimed invention is**

**directed to non-statutory subject matter.**

        As to claims 1, 19-21 and 32, a "graphical user interface" is being recited; however, it appears

that the interface would reasonably be interpreted by one of ordinary skill in the art as software, per se

because elements included in the graphical interface are just software components (e.g., tracking symbol,

a menu).  The only element recited in the claims considered a hardware element is "an input transducer";

however, the input transducer is not positively recited as part of the graphical user interface.  Although

this input transducer causes a tracking symbol to be positioned on a display, it is this "tracking symbol" is

being claimed.  Therefore, the interface would reasonably be interpreted as functional descriptive

material, per se and is a non-statutory subject matter.

Claims 2-18 fail to resolve the deficiencies of claim 1; therefore, are also rejected.


**Claim Rejections - 35 USC § 103**

7.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented
> and the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.


8.      **Claims 1-4, 7, 9-12, 14-18, 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable**

**over Selker (Patent No US 6549219 B2; hereinafter Selker) in view of Iwema et al. (Patent No. US**

**7058902 B2; hereinafter Iwema) further in view of Strauss (Patent No. US 6,246,411 B1, hereinafter**

**Strauss).**


**As to claim 1**, Selker teaches:

A graphical user interface (e.g., see Fig. 1 and col. 2 lines 45-50), comprising:

a first region control initiating a first function when activated (e.g., region 10 with menu item

placed therein as shown in Fig. 1 and col. 3 lines 35-43);

a second region control associated with the first region control having an outer edge and

initiating a second function (e.g., region 20 with menu item placed therein as shown in Fig. 1 and col. 3

lines 35-43);

a tracking symbol tracking a position of a position transducer moved by a user, movable within

the first and second region controls, and indicating event focus for activating and performing the first and

second functions (e.g., see Fig. 8 and col. 5 lines 4-16).

Selker further teaches the pie menu as shown in Figure 1 can be implemented as pop-up menus, fixed menu, context specific menus, dialog boxes or equivalent structure (e.g., see col. 5 lines 46-61). Therefore, it appears that Selker teaches the menu and controls are always visible when one of the controls is not activated and always not visible when one of the controls is activated as well-known in the implementation of context menu (e.g., see page 2 of Adobe Photoshop 5 attached hereto). Even if it does not, implementation of "the menu and controls are always visible when one of the controls is not activated and always not visible when one of the controls is activated" is disclosed by Iwema.

Iwema teaches a context menu having a plurality of activatable controls that are displayed at a location of the display device corresponding to a position selectable by a pointer device (e.g., see Figs. 3, 9). Iwema teaches the contextual menu disclosed in Iwema can be in square or circle shapes (e.g., see col. 8 lines 60-67). Iwema teaches the menus can be configured such that, whenever a user makes a menu choice that does not have an associated lover level menu, the menu having that choice disappears (e.g., see col. 11 lines 5-12). Therefore, the skilled artisan in the art would recognize that if the menu having only one layer as shown in Fig. 3, the menu will be removed when one of the icons is selected. With regard to claim 1, Iwema teaches the context menu (e.g., Fig. 3) is always visible when one of the controls (e.g., icons 308-322) is not activated (e.g., selected) and always not visible when one of the controls is activated (e.g., the menu is removed in response to the user selection of one of the controls).

Selker and Iwema do not teach a tracking menu boundary surrounding the first and second region controls and coincident with the outer edge and the tracking symbol initiating movement of the interface to track the tracking symbol when the boundary is encountered by the tracking symbol during movement of the tracking symbol.

In the same field of endeavor of menu enhancement, Strauss teaches a graphical user interface comprising a tracking symbol positioned corresponding to an input transducer movable by a user (e.g., see Fig. 1B). Strauss teaches a first region control initiating a first function when activated (e.g., control button 8, see Fig. 1B); a second region control associated with the first region control and initiating a second function (e.g., control button 9); a tracking menu boundary surrounding the first and second region controls (e.g., zone 42 as shown in Fig. 7). Strauss teaches a tracking symbol tracking a position

of a position transducer moved by a user (e.g., cursor 4), movable within the first and second region

controls (e.g., see col. 6, lines 63-64), initiating movement of the interface to track the tracking symbol

when the boundary is encountered by the tracking symbol during movement of the tracking symbol (e.g.,

see col. 6, lines 65-67) and indicating event focus for activating and performing the first and second

functions (e.g., Fig. 1B-1D).

Strauss does not expressly teach that the tracking menu boundary is coincident with the outer

edge.  However, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have implemented this limitation because Strauss suggests to the skilled artisan that different

designs can be applied for the drag toolbar such as the drag toolbar can be in different shapes with

different controls (e.g., see Figs. 2A-4B; col. 4 lines 24-54).  One would be motivated to implement this

feature is to provide a user with a visual cue or feature as to what the tracking boundary is so that the

user may use the tracking menu more efficiently.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention

was made, having the teachings of Strauss, Selker and Iwema in front of them, to modify the menu in the

system of Selker and Iwema to include the feature of floating menu as taught by Strauss to achieve the

claimed invention.  As suggested by Strauss, the motivation for the combination is to put the menu in

close proximity to the cursor if the user wants to activate any functional controls (e.g., see Strauss col. 6

lines 55-58).

**As to claim 20**, claim 20 is rejected along the same rationale as set forth in claim 1 above.

Including the following:

Selker teaches a pie menu graphical user interface having the first function activatable in an

entire peripheral region of the control and the second function activatable in a central region of the control

having an exterior edge (e.g., see Selker Fig. 1).

As to claim 21, claim 21 is in the same context as claim 20; therefore it is rejected under similar rationale.

As to claim 2, Selker further teaches the second region control surrounds the first region control (e.g., see Fig. 1).

As to claim 3, Selker further teaches wherein the first region control is circular in shape (e.g., see Fig. 1).

As to claim 4, Selker further teaches wherein second region control is a most frequently used function (e.g., see col. 4, lines 62-67 through col. 5, lines 1-3).

As to claim 7, Selker further teaches the first region control is circular shaped and the second region control is ring shaped (e.g., see Fig. 1).

As to claim 9, Selker further teaches wherein the second region control is segmented into ring segments each being a different control (e.g., control buttons 63-70 as shown in Fig. 6).

As to claim 10, Selker further teaches comprising a ring control having a ring shape surrounding the second control region (i.e., the outer ring, see Fig. 6) and initiating a third function when activated (i.e., highlighted when activated as shown in Fig. 8).

As to claims 11 and 14, Selker further teaches comprising a button control initiating a third function when activated and located on a boundary between the first and second region controls (e.g., see Fig. 6).

As to claim 12, Selker further teaches comprising a button control initiating a third function when activated and located within a region (e.g., note that button 61 is located within the pie menu, see Fig. 6).

As to claim 15, Selker further teaches button controls (i.e., control buttons 61 and 62 as shown in Fig. 6) initiating a functions when activated (i.e., functions that associates with buttons 61 and 62) and located on a boundary between the first and second region controls (see Fig. 6) and creating access channels for movement of the tracking symbol within the interface (i.e., the user can move the cursor within the ring region containing control buttons 61 and 62).

As to claim 16, Selker further teaches a pie menu graphical user interface having a second region control associated with the first region control having an outer edge and initiating a second function (e.g., see Fig. 1). Strauss further teaches that a circular drag toolbar can be implemented using the disclose invention (e.g., see Fig. 3A; note that the zone boundary has the same shape as the circular/pie menu). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have implemented this limitation to provide a user with a visual cue or feature as to what the tracking boundary is so that the user may use the tracking menu more efficiently.

As to claim 17, Strauss further teaches wherein the interface is invoked by pressing an activation key (see col. 2, lines 54-55). Thus, combining Strauss, Iwema and Selker would meet the claimed limitations for the same reasons as discussed with respect to claim 1 above

As to claim 18, Strauss further teaches wherein the interface is displayed while an activation key is active (see col. 2, lines 54-55). Thus, combining Strauss, Iwema and Selker would meet the claimed limitations for the same reasons as discussed with respect to claim 1 above

9.      **Claims 5, 22-24, 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selker in view of Iwema further in view of Strauss and further in view of Warnock et al. (Patent No 5,634,064; hereinafter Warnock).**

As to claim 22, Selker, Iwema and Strauss teaches:

A method, comprising: displaying a tracking menu tool having an exterior edge;

allowing a user to select control operations using the tracking menu tool and an input transducer;

performing a selected operations responsive to movements of the input transducer by the user and

causing the menu to move when the tracking boundary is encountered and that the exterior edge is

coincident with the tracking boundary so as to cause the menu to move when the exterior edge is

encountered; and presenting the menu as always visible when one of the operations is not activated and

always not visible when one of the operations is activated (e.g., see the discussion of claim 1 as set forth

above and Selker col. 5 lines 47-61).

Selker, Iwema and Strauss do not expressly teach that the tracking menu includes pan and zoom

operations.

Warnock, though, teaches a user interface having a toolbar menu where the toolbar menu

includes pan and zoom operations that when selecting one of the pan and zoom operation causes the

selected operation to be performed (e.g., see col. 10 lines 20-35 and Fig. 4a). Therefore, it would have

been obvious to one skill in the art, at the time the invention was made, to modify the tracking menu as

taught by Selker, Iwema and Strauss to include the well-known feature of pan and zoom as disclosed in

Warnock because pan and zoom operations made reading easier since they allow for detail display upon

activation (e.g., see Warnock col. 2 lines 9-27).

**As to claim 29**, claim 29 reflects an apparatus comprising a display and a pen type input

transducer (e.g., see Strauss col. 1, lines 18-21 and col. 2 lines 18-25) for performing the method steps

as recited in claim 22, and is rejected along the same rationale.

**As to claim 23**, Strauss further teaches that displaying a corresponding copy and paste tracking

symbol icon as a replacement for the regular mouse cursor to indicate the selected function to be

performed (e.g., see Fig. 7 and col. 6 lines 30-46). Therefore, it would have been obvious to one of

ordinary skill in the art to apply the feature of displaying a corresponding icon as a replacement for the

regular mouse cursor taught in Strauss to the pan and zoom operation taught in Warnock to achieve the

claimed invention to indicate to the user the selected operation to be performed.

**As to claim 24**, Strauss teaches the tool can be pinned (e.g., see col. 6 lines 17-29).  Thus, combining Selker, Iwema, Strauss and Warnock would meet the claimed limitations for the same reasons as discussed with respect to claim 23 above.

**As to claim 28**, Strauss teaches the tool can be pinned and unpinned when the transducer moves over the "hook" button (e.g., see col. 6 lines 17-29).  Thus, combining Selker, Iwema, Strauss and Warnock would meet the claimed limitations for the same reasons as discussed with respect to claim 23 above.

**As to claim 30**, Selker, Iwema and Strauss teaches:

A computer readable storage controlling a computer via a tracking menu having the appearance of a center and a surrounding ring with a menu exterior edge wherein the exterior edge is coincident with the tracking boundary so as to cause the menu to move when the exterior edge is encountered; and wherein the menu as always visible when one of the operations is not activated and always not visible when one of the operations is activated (e.g., see the discussion of claim 1 as set forth above and Selker col. 5 lines 47-61); including the following:

Strauss further teaches:

the tracking menu interpreting transducer input events as controls selection and control events and interpreting transducer motion as a menu move event when a tracking boundary of the menu is encountered (e.g., see col. 8 lines 34-62 and Fig. 7).

a circular drag toolbar can be implemented using the disclose invention (e.g., see Fig. 3A; note that the zone boundary has the same shape as the circular/pie menu) and that various modifications may be made without departing from the spirit and scope of the invention (e.g., see col. 8 lines 63-67).

Selker, Iwema and Strauss do not expressly teach that the tracking menu includes pan and zoom operations.

Warnock, though, teaches a user interface having a toolbar menu where the toolbar menu includes pan and zoom operations that when selecting one of the pan and zoom operation causes the selected operation to be performed (e.g., see col. 10 lines 20-35 and Fig. 4a). Therefore, it would have been obvious to one skill in the art, at the time the invention was made, to modify the tracking menu as taught by Selker, Iwema and Strauss to include the pan and zoom operations as taught by Warnock to achieve the claimed invention for the same reasons as set forth in claim 22 above.

**As to claim 31**, claim 31 reflects a computer readable medium controlling a computer having a display and a pen type input transducer (e.g., Strauss see col. 1, lines 18-21 and col. 2 lines 18-25) for performing the functions as recited in claim 30 above, and is rejected along the same rationale.

**As to claim 32**, Selker, Iwema and Strauss teaches:

A graphical user interface, comprising: a tracking menu having a control in a center and another control surrounding the center control and with the tracking menu moving when an area immediately outside the menu is about to be reached and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated (e.g., see the discussion of claim 1 as set forth above and Selker col. 5 lines 47-61).

Selker, Iwema and Strauss do not expressly teach that the tracking menu includes pan and zoom operations.

Warnock, though, teaches a user interface having a toolbar menu where the toolbar menu includes pan and zoom operations that when selecting one of the pan and zoom operation causes the selected operation to be performed (e.g., see col. 10 lines 20-35 and Fig. 4a). Therefore, it would have been obvious to one skill in the art, at the time the invention was made, to modify the tracking menu as taught by Selker, Iwema and Strauss to include the pan and zoom operations as taught by Warnock to achieve the claimed invention for the same reasons as set forth in claim 22 above.

**As to claim 5**, Selker further teaches that the pie menu can be implemented on any computer display and that Selker's disclose invention is not limited by size, shape, position, menu type.. (e.g., see

col. 5 lines 46-61). Therefore, it would have been obvious to one skill in the art, at the time the invention was made, to modify the tracking menu as taught by Selker, Iwema and Strauss to include the pan and zoom operations as taught by Warnock (e.g., see the discussion in claim 22 above) to achieve the claimed invention for the same reasons as set forth in claim 22 above.

10.      **Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selker in view of Iwema further in view of Strauss and further in view of Warnock and further in view of Mullet et al (Patent No 5,638,523; hereinafter simply refer to as Mullet).**

       **As to claim 25**, Selker, Iwema, Strauss and Warnock teach the limitations of claim 22 for the same reasons as discussed with respect to claim 22 above. Warnock further teaches a zoom control drop down option that allows the user to select the zoom level (e.g., 47% shown in Fig. 4a). However, Selker, Iwema, Strauss and Warnock do not expressly teach designating a zoom control axis responsive to initial movement of the input transducer after the zoom operation is selected. Mullet, though, teaches a zoom control axis (i.e., magnification adjustment slider 17 as shown in Fig. 2a) responsive to initial movement of the input transducer (mouse 25 and cursor 21 as shown in Fig. 1) after the zoom operation is selected (i.e., when the browsing tool 10 is in the magnification mode, see col. 4, lines 65-67).

       It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the browsing tool with the zoom control axis as taught by Mullet to the zoom and pan tracking menu as taught by Selker, Iwema, Strauss and Warnock to achieve the claimed invention. The motivation for the combination is to allow the user to designate the zoom level as preferred and thus to efficiently browse through the information displayed on the screen (see Mullet col. 1, lines 57-60).

       **As to claim 26**, Mullet further teaches comprising controlling a zoom scale factor responsive to a projection of transducer movements onto the control axis (see col. 5, lines 10-15). Thus combining Selker, Iwema, Strauss, Warnock and Mullet would meet the claimed limitation for the same reasons as discussed with respect to claim 25 above.

**As to claim 27**, Selker discloses the tool includes a replaceable control and said method further comprises designating the replicable control as the most recently selected operation (i.e., the menu item of highest frequency of use is placed in the level 1 circle 10; note that the menu items can be any symbols generally known and used as menu items, see col. 3, lines 35-43).

11.     **Claims 6, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selker in view of Iwema further in view of Strauss and further in view of Warnock and further in view of Schirmer (Patent No. US 6369837; hereinafter Schirmer) and further in view of Beaton et al. (Patent No. 6037937; hereinafter Beaton).**

**As to claims 6 and 13**, Selker, Iwema, Strauss and Warnock teaches one of a zoom and pan icon replaces the tracking symbol when the functions are activated (e.g., see the discussion in claims 22 and 23 and the discussion in claims 22 and 23 is incorporated hereto).

Strauss further teaches that the region is transparent when the tracking symbol is active (i.e., the drag toolbar 7 is transparent when button 8 is selected, instead icon 6 will be used to depict the currently selected option, see Fig. 1D). Strauss also discloses that the drag toolbar can be grayed out due to certain condition (see col. 8, lines 1-10) and that one of a copy or move icon replaces the tracking symbol when the functions are activated (e.g., see Figs. 1B, 1D). Iwema teaches the context menu (e.g., Fig. 3) is always visible when one of the controls (e.g., icons 308-322) is not activated (e.g., selected) and always not visible when one of the controls is activated (e.g., the menu is removed in response to the user selection of one of the controls).

However, Selker, Iwema, Strauss and Warnock do not explicitly teach that the interface is semi-transparent when the functions are not activated, transparent when the functions are activated.

Schirmer teaches a method and apparatus for an improved graphical user interface having a menu with selectable controls (e.g., see col. 4 lines 31-46 and Fig. 5). Schirmer teaches the menu is semi-transparent or low opacity when not being used (e.g., see col. 4 lines 47-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the feature of rendering the menu in semi-transparent state as taught by Schirmer to the zoom and pan tracking menu as taught by Selker, Iwema, Strauss and Warnock to provide a semi-transparent state to the menu when not being used. As suggested by Schirmer, the motivation for the combination is to minimize the obstruction to the underlying window (e.g., see Schirmer col. 4 lines 51-54).

Selker, Iwema, Strauss, Warnock and Schirmer do not teach that the interface is transparent when the functions are activated.

Beaton, though, teaches a graphical navigation menu for electronic devices; wherein the electronic devices comprise electronic organizers, PDA, graphical display-based phones or any other computer devices (e.g., see col. 3 lines 22-32 and Abstract). Beaton teaches the graphical navigation menu can be activate by touching the display at the center of the navigation tool for a predetermined time period (e.g., see col. 5 lines 14-27). Beaton teaches the activated navigation tool is preferably transparent (e.g., see col. 5 lines 14-27). Beaton discloses stylus device can be used to activate the navigation menu (e.g., see col. 5 lines 28-40 and col. 6 lines 36-43).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the function of making the menu transparent when activated as taught by Beaton to the zoom and pan tracking menu as taught by Selker, Iwema, Strauss and Warnock to avoid hindering the display of content information in the viewing area (e.g., see Beaton col. 5 lines 14-27).

**12.     Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Selker in view of Iwema further in view of Strauss and further in view of Warnock and further in view of Schirmer and further in view of Beaton and further in view of Nicholas, III (Patent No US 6,865,719 B1; hereinafter simply referred to as Nicholas).**

**As to claim 19**, Selker teaches:

A graphical user interface (e.g., see Fig. 1 and col. 2 lines 45-50), comprising:

a circular shaped first region control initiating a function when activated (e.g., region 10 with menu item placed therein as shown in Fig. 1 and col. 3 lines 35-43);

a ring shaped second region control surrounding the first control region and initiating a function when activated (e.g., region 20 with menu item placed therein as shown in Fig. 1 and col. 3 lines 35-43);

a ring control having a ring shaped surrounding the second control region having an outer edge and initiating a third function when activated, the third function being a most frequently used function (e.g., see Fig. 6 and col. 4, lines 62-67 through col. 5, lines 1-3);

a button controls initiating an additional functions when activated (i.e., control buttons 61 and 62 as shown in Fig. 6), located on a boundary between the first and second region controls and creating access channels for movement of the tracking symbol within the interface (i.e., the user can move the cursor within the ring region containing control buttons 61 and 62);

Selker teaches the second region control has an exterior graphic edge (e.g., see Fig. 1);

Selker further teaches the pie menu as shown in Figure 1 can be implemented as pop-up menus, fixed menu, context specific menus, dialog boxes or equivalent structure (e.g., see col. 5 lines 46-61). Therefore, it appears that Selker teaches the menu and controls are always visible when one of the controls is not activated and always not visible when one of the controls is activated as well-known in the implementation of context menu (e.g., see page 2 of Adobe Photoshop 5 above). Even if it does not, implementation of "the menu and controls are always visible when one of the controls is not activated and always not visible when one of the controls is activated" is disclosed by Iwema.

Iwema teaches a context menu having a plurality of activatable controls that are displayed at a location of the display device corresponding to a position selectable by a pointer device (e.g., see Figs. 3, 9). Iwema teaches the contextual menu disclosed in Iwema can be in square or circle shapes (e.g., see col. 8 lines 60-67). Iwema teaches the menus can be configured such that, whenever a user makes a menu choice that does not have an associated lover level menu, the menu having that choice disappears (e.g., see col. 11 lines 5-12). Therefore, the skilled artisan in the art would recognize that if the menu having only one layer as shown in Fig. 3, the menu will be removed when one of the icons is selected.

With regard to claim 1, Iwema teaches <u>the context menu (e.g., Fig. 3) is always visible when one of the</u> <u>controls (e.g., icons 308-322) is not activated (e.g., selected) and always not visible when one of the</u> <u>controls is activated (e.g., the menu is removed in response to the user selection of one of the controls)</u>.

Selker and Iwema do not teach a tracking menu boundary surrounding the ring control and coincident with the exterior graphic edge of the second region.

In the same field of endeavor of menu enhancement, Strauss teaches a graphical user interface comprising a tracking symbol positioned corresponding to an input transducer movable by a user (e.g., see Fig. 1B). Strauss teaches a first region control initiating a first function when activated (e.g., control button 8, see Fig. 1B); a second region control associated with the first region control and initiating a second function (e.g., control button 9); a tracking menu boundary surrounding the first and second region controls (e.g., zone 42 as shown in Fig. 7). Strauss teaches a tracking symbol tracking a position of a position transducer moved by a user (e.g., cursor 4), movable within the first and second region controls (e.g., see col. 6, lines 63-64), initiating movement of the interface to track the tracking symbol when the boundary is encountered by the tracking symbol during movement of the tracking symbol (e.g., see col. 6, lines 65-67) and indicating event focus for activating and performing the first and second functions (e.g., Fig. 1B-1D).

Strauss does not expressly teach that the tracking menu boundary is coincident with the outer edge. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have implemented this limitation because Strauss suggests to the skilled artisan that different designs can be applied for the drag toolbar such as the drag toolbar can be in different shapes with different controls (e.g., see Figs. 2A-4B; col. 4 lines 24-54). One would be motivated to implement this feature is to provide a user with a visual cue or feature as to what the tracking boundary is so that the user may use the tracking menu more efficiently.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made, having the teachings of Strauss, Selker and Iwema in front of them, to modify the menu in the system of Selker and Iwema to include the feature of floating menu as taught by Strauss to achieve the

claimed invention.  As suggested by Strauss, the motivation for the combination is to put the menu in close proximity to the cursor if the user wants to activate any functional controls (e.g., see Strauss col. 6 lines 55-58).

Selker, Iwema and Strauss do not expressly teach that the tracking menu includes pan and zoom operations.

Warnock, though, teaches a user interface having a toolbar menu where the toolbar menu includes pan and zoom operations that when selecting one of the pan and zoom operation causes the selected operation to be performed (e.g., see col. 10 lines 20-35 and Fig. 4a).  Therefore, it would have been obvious to one skill in the art, at the time the invention was made, to modify the tracking menu as taught by Selker, Iwema and Strauss to include the well-known feature of pan and zoom as disclosed in Warnock because pan and zoom operations made reading easier since they allow for detail display upon activation (e.g., see Warnock col. 2 lines 9-27).

Selker, Iwema, Strauss and Warnock do not explicitly teach that the interface is semi-transparent when the functions are not activated, transparent when the functions are activated.

Schirmer teaches a method and apparatus for an improved graphical user interface having a menu with selectable controls (e.g., see col. 4 lines 31-46 and Fig. 5).  Schirmer teaches the menu is semi-transparent or low opacity when not being used (e.g., see col. 4 lines 47-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the feature of rendering the menu in semi-transparent state as taught by Schirmer to the zoom and pan tracking menu as taught by Selker, Iwema, Strauss and Warnock to provide a semi-transparent state to the menu when not being used.  As suggested by Schirmer, the motivation for the combination is to minimize the obstruction to the underlying window (e.g., see Schirmer col. 4 lines 51-54).

Selker, Iwema, Strauss, Warnock and Schirmer do not teach that the interface is transparent when the functions are activated.

Beaton, though, teaches a graphical navigation menu for electronic devices; wherein the electronic devices comprise electronic organizers, PDA, graphical display-based phones or any other computer devices (e.g., see col. 3 lines 22-32 and Abstract). Beaton teaches the graphical navigation menu can be activate by touching the display at the center of the navigation tool for a predetermined time period (e.g., see col. 5 lines 14-27). Beaton teaches the activated navigation tool is preferably transparent (e.g., see col. 5 lines 14-27). Beaton discloses stylus device can be used to activate the navigation menu (e.g., see col. 5 lines 28-40 and col. 6 lines 36-43).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the function of making the menu transparent when activated as taught by Beaton to the zoom and pan tracking menu as taught by Selker, Iwema, Strauss and Warnock to avoid hindering the display of content information in the viewing area (e.g., see Beaton col. 5 lines 14-27).

Selker, Iwema, Strauss, Warnock, Schirmer and Beaton do not teach the second region is made invisible during movement and an icon for the second region control is displayed when the tracking symbol is over the second region control.

Nicholas teaches the control region is made invisible during movement (i.e., the message 202b can be removed from view while trailing the cursor, see col. 6, lines 4-15, or Fig. 2A Item 208c).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the feature of making the control region invisible during movement taught in Nicholas to the zoom and pan tracking menu taught in Selker, Iwema, Strauss, Warnock, Schirmer and Beaton to achieve the capability to make the second region control of the zoom and pan tracking menu invisible during movement to reduce the distraction to the user trying to read the information on the display (see Nicholas col. 6, lines 10-15).

Selker further teaches a mouse over event that highlight a region control when the tracking symbol is over the region control (e.g., see Fig. 8). Strauss teaches a feature that allows the user to hide or unhide the drag toolbar when one of the controls is activated (e.g., see Fig. 4 and col. 6 lines 5-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made, to modify the tracking menu as taught in Selker, Iwema, Strauss, Warnock, Schirmer and Beaton to include the feature of displaying an icon for the second region control when the tracking symbol is over the second region control. The motivation is to provide an indication to the user as to what the control is under the cursor.

13.     **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Selker in view of Iwema further in view of Strauss and further in view of Nicholas.**

        **As to claim 8**, Selker, Iwema and Strauss teach the limitations of claim 7 for the same reasons as discussed with respect to claim 7 above. Selker, Iwema and Strauss do not teach the second region is made invisible during movement and an icon for the second region control is displayed when the tracking symbol is over the second region control.

        Nicholas teaches the control region is made invisible during movement (i.e., the message 202b can be removed from view while trailing the cursor, see col. 6, lines 4-15, or Fig. 2A Item 208c).

        It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the feature of making the control region invisible during movement taught in Nicholas to the zoom and pan tracking menu taught in Selker, Iwema, Strauss, Warnock, Schirmer and Beaton to achieve the claimed invention for the same reasons set forth in claim 19 above

        Selker further teaches a mouse over event that highlight a region control when the tracking symbol is over the region control (e.g., see Fig. 8). Strauss teaches a feature that allows the user to hide or unhide the drag toolbar when one of the controls is activated (e.g., see Fig. 4 and col. 6 lines 5-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the tracking menu as taught in Selker, Iwema, Strauss, Warnock, Schirmer and Beaton to include the feature of displaying an icon for the second region control when the tracking symbol is over the second region control to achieve the claimed invention for the same reasons set forth in claim 19 above.

**Response to Arguments**

14.     Applicant's arguments filed 2/26/08 have been fully considered but they are moot in new

ground(s) of rejections.

**Conclusion**

The prior art made of record on form PTO-892 and not relied upon is considered pertinent to

applicant's disclosure.  Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully

when responding to this action.

**It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references**

**and any interpretation of the references should not be considered to be limiting in any way.  A reference is**

**relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one**

**having ordinary skill in the art.  In re Heck, 699 F.2d 1331, 1332-33,216 USPQ 1038, 1039 (Fed. Cir. 1983)**

**(quoting In re Lemelson, 397 F.2d 1006,1009, 158 USPQ 275,277 (CCPA 1968)).**

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to TuyetLien (Lien) T. Tran whose telephone number is 571-270-1033.  The examiner can

normally be reached on Mon-Friday: 7:30 - 5:00, off on alternating Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Weilun Lo can be reached on 571-272-4847.  The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TuyetLien T Tran/
Examiner, Art Unit 2179

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